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FILING FEE EXEMPT PURSUANT TO
GOVERNMENT CODE § 6103

FILED
Superior Court of California
County of Los Angeles

APR 12 2019

Sherri R. Carter, Executive Officer/Clerk
By Anthony Ortiz Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10
11 MAYRA ALVAREZ,

12 Plaintiff,

13 v.

14 JOSE HUIZAR, an individual; CITY OF
LOS ANGELES, a municipality; and DOES
15 1-10, inclusive,

16 Defendants.

Case No. 18STCV01722

[Assigned for All Purposes to:
Hon. Richard E. Rico, Dept. 17]

**DEFENDANT LOS ANGELES CITY
COUNCILMAN JOSE HUIZAR'S EX PARTE
APPLICATION FOR AN ORDER TO
SPECIALLY SET A HEARING ON
DEFENDANT'S MOTION TO SEAL
RECORDS; MEMORANDUM OF POINTS
AND AUTHORITIES**

[Filed concurrently with [Proposed] Order and
Declaration of Carmen M. Aguado]

Date: April 12, 2019
Time: 8:30 a.m.
Dept.: 17

Action Filed: October 22, 2018
Trial Date: None Set

27
28 LA #4835-8005-1604 v1

1 TO THE HONORABLE COURT, TO ALL PARTIES, AND TO THEIR COUNSEL OF
2 RECORD:

3 PLEASE TAKE NOTICE that on April 12, 2019, at 8:30 am, or as soon thereafter as may
4 be heard in Department 17 of the above-entitled Court, located at 110 N. Hill St., Los Angeles,
5 California, 90012, before the Honorable Richard E. Rico, Defendant Los Angeles City
6 Councilman Jose Huizar (hereinafter "Defendant Huizar") will and hereby does apply *ex parte* for
7 an order to specially set the hearing on Defendant Huizar's anticipated motion to seal, wherein
8 Defendant Huizar will seek to file under seal a motion to stay all proceedings along with all
9 documents concurrently filed therewith, on a date before the May 24, 2019 statutory service
10 deadline for Defendant Huizar's motion to stay.

11 This Application is made pursuant to California Rules of Court 3.1200, *et seq.* and
12 3.1300(b) and California Code of Civil Procedure sections 128 and 1005(b), which authorize the
13 Court to advance the hearing date on a motion. **Good cause** exists to grant this *ex parte*
14 application because Defendant Huizar's constitutional rights relating to a pending criminal
15 investigation, which is under close scrutiny by the media, and ability to defend himself in this
16 action will be infringed if the motion to stay is not filed under seal. Additionally, in his
17 anticipated motion to stay, Defendant Huizar intends to rely on information pertaining to the
18 criminal investigation that is not public. Currently, the earliest date for a hearing on Defendant
19 Huizar's anticipated motion to seal is June 24, 2019, which defense counsel reserved. However,
20 the deadline for Defendant Huizar to serve his motion to stay is May 24, 2019, and the hearing
21 date is June 24, 2019. Thus, Defendant Huizar will be unable to obtain a ruling on his motion to
22 seal his motion to prior to the deadline to serve and file said motion. Accordingly, Defendant
23 Huizar will be **irreparably harmed** if this application is not granted and the hearing on his
24 anticipated motion to seal is not advanced to a date before May 24, 2019.

25 This *ex parte* application is based on this notice and application, the accompanying
26 Memorandum of Points and Authorities, the Declaration of Carmen M. Aguado, the papers and
27 records on file herein, and on any oral argument and documentary evidence as may be presented
28 at the hearing on this application.

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1 Defendant Huizar has not previously made an *ex parte* application of the same character
2 or for the same relief as this Application.

3 **NOTICE PROVISION.** Pursuant to Rules of Court, Rules 3.1203 and 3.1204, on April
4 11, 2019, via e-mail communication, counsel for Defendant Huizar provided notice that stated
5 with specificity the nature of the relief to be requested through this Application and the date, time,
6 and place for the presentation of the Application to counsel for Plaintiff Mayra Alvarez
7 (“Plaintiff”), Terrence Jones, and counsel for Defendant City of Los Angeles, Dennis Kong and
8 Kelly Welch. Plaintiff is represented by Terrence Jones, The Law Office of Terrence Jones, 6737
9 Bright Avenue, Suite B6, Whittier, California 90601, Tel.: 213-863-4490, Email:
10 terrence@jonesonlaw.com. Defendant City of Los Angeles is represented by Dennis Kong and
11 Kelly Welch, Los Angeles City Attorney’s Office, 200 North Main Street, 7th Floor, Los
12 Angeles, CA 90012, Tel.: 213-978-8200, Email: dennis.kong@lacity.org. (See Decl. of Carmen
13 M. Aguado (“Aguado Decl.”) ¶ 6.)

14 At the time of filing this Application, counsel for Defendant Huizar had not received
15 notification from counsel for Plaintiff or Defendant City of Los Angeles as to whether they intend
16 to oppose the Application. (*Id.* at ¶ 7.)

17 Dated: April 11, 2019

BURKE, WILLIAMS & SORENSEN, LLP

18 By: 
19

20 Susan E. Coleman
21 Carmen M. Aguado
22 Attorneys for Defendant
23 JOSE HUIZAR
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION/ STATEMENT OF PERTINENT FACTS.

3 Defendant Jose Huizar ("Defendant Huizar"), an elected member of the Los Angeles City
4 Council, respectfully submits this *ex parte* application to specially set the hearing on his
5 anticipated motion to seal, wherein he will request to seal his motion to stay all proceedings in
6 order protect his private information and constitutional rights, to a date *before* the May 24, 2019
7 statutory deadline for service of Defendant Huizar's motion to stay.

8 Specifically, the U.S. Attorney's Office and FBI are currently conducting an investigation
9 that includes Defendant Huizar. (Aguado Decl. at ¶ 2.) The criminal investigation, as well as this
10 civil litigation, has received a significant amount of media coverage and exposure. (*Id.* at ¶ 2.)
11 Defendant Huizar intends to serve a motion to stay this matter on May 24, 2019, and the hearing
12 on the motion to stay is set for June 24, 2019. (*Id.* at ¶ 3.) However, Defendant Huizar seeks to
13 file the motion to stay under seal in order to protect his privacy and constitutional rights, as well
14 as the integrity of the criminal investigation, which is implicated by virtue of the public nature of
15 court filings in this matter. Additionally, in his anticipated motion to stay, Defendant Huizar
16 intends to rely on information pertaining to the criminal investigation that is not public. (*Id.* at ¶
17 4.) The earliest date for a hearing on Defendant Huizar's anticipated motion to seal is June 24,
18 2019 –*after* Defendant Huizar is statutorily required to serve his motion to stay. (*Id.* at ¶ 5.) As
19 such, Defendant Huizar seeks an order to specially set the hearing on his motion to stay to a date
20 before May 24, 2019.

21 Absent an order specially setting the hearing on Defendant Huizar's motion to seal to a
22 date before the deadline to serve his motion to seal, Defendant Huizar will be irreparably harmed
23 because he will be unable to protect his privacy and constitutional rights and the integrity of the
24 criminal matter will be impinged. Accordingly, Defendant Huizar respectfully requests this Court
25 grant his application to advance the hearing on the motion to seal.

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1 **II. THERE IS GOOD CAUSE TO GRANT THIS APPLICATION.**

2 A party may file an *ex parte* application if the party complies with the necessary notice
3 requirements and can show it will suffer irreparable harm, immediate danger or has any other
4 statutory basis for granting *ex parte* relief. *See* Cal. Rules of Ct., Rule 3.1200 *et seq.*

5 Additionally, under Code of Civil Procedure section 128, subdivision (a)(8), every court
6 shall have the power to “amend and control its process and orders so as to make them conform to
7 law and justice.” *See also Cottle v. Superior Ct.*, 3 Cal.App.4th 1371, 1376 (1992). It is well
8 established that “[s]uperior courts have inherent authority to adopt procedures needed to exercise
9 jurisdiction as well as to manage and control their dockets,” including to specially set or advance
10 hearing dates in the interest of justice and judicial economy. *People v. Perkins*, 244 Cal. App. 4th
11 129, 138 (2016); *Sole Energy Co. v. Petrominerals Corp.*, 128 Cal. App. 4th 187, 193 (2005)
12 (“The principle that a trial court may consider a motion regardless of the label placed on it by a
13 party is consistent with the courts inherent authority to manage and control its docket.”)

14 Here, as discussed above, Defendant Huizar seeks to specially set the hearing on his
15 anticipated motion to seal, wherein he will seek to seal his motion to stay all proceedings to
16 protect his private information and Constitutional rights, to a date before May 24, 2019 – the
17 statutory deadline for Defendant Huizar to serve his motion to stay. (Aguado Decl. at ¶¶ 3-5.)
18 Currently, the earliest date to hear his motion to seal is June 24, 2019; thus, Defendant Huizar
19 will be unable to obtain an order sealing his motion to stay in advance of his service deadline for
20 said motion. (*Id.*) It is in the interest of law and justice, namely to protect Defendant Huizar’s
21 right to privacy and the integrity of the criminal investigation, to advance the motion to seal to a
22 date that will allow him to obtain the necessary order before serving his motion to stay. *See*
23 *Cottle*, 3 Cal.App.4th at 1376,

24 **III. THIS EX PARTE MOTION IS APPROPRIATE BEFORE THE COURT BASED**
25 **UPON CALIFORNIA RULES OF COURT, RULE 3.1200 ET SEQ.**

26 Under Rule of Court 3.1200 *et seq.*, a party may file an *ex parte* application for an order to
27 specially set, if the party complies with the notice requirements and can show it will suffer
28 irreparable harm, immediate danger or any other statutory basis for granting *ex parte* relief.

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1 Defendant Huizar has met the notice requirements by timely contacting and providing notice of
2 the Application to Plaintiff's attorney, Terrence Jones, and counsel for co-defendant City of Los
3 Angeles, Dennis Kong. (Aguado Decl. at ¶ 6.)


4 At the time of filing this Application, counsel for Defendant Huizar had not received
5 notification from counsel for Plaintiff or Defendant City of Los Angeles as to whether they intend
6 to oppose the Application. (*Id.* at ¶ 7.)

7 **III. CONCLUSION.**

8 Based on the foregoing, there is good cause to specially set the hearing on Defendant
9 Huizar's anticipated motion to seal on a date before May 24, 2019.

10 Dated: April 11, 2019

BURKE, WILLIAMS & SORENSEN, LLP

11
12 By: 

13 Susan E. Coleman
14 Carmen M. Aguado
15 Attorneys for Defendant
16 JOSE HUIZAR
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APR 11 2019

1 **PROOF OF SERVICE**

2 I, Susan Vasquez, declare:

3 I am a citizen of the United States and employed in Los Angeles County, California. I am
4 over the age of eighteen years and not a party to the within-entitled action. My business address
5 is 444 South Flower Street, Suite 2400, Los Angeles, California 90071-2953. On April 11, 2019,
6 I served a copy of the within document(s):

7 **DEFENDANT LOS ANGELES CITY COUNCILMAN JOSE HUIZAR'S *EX PARTE***
8 **APPLICATION FOR AN ORDER TO SPECIALLY SET A HEARING ON**
9 **DEFENDANT'S MOTION TO SEAL RECORDS; MEMORANDUM OF POINTS AND**
10 **AUTHORITIES**

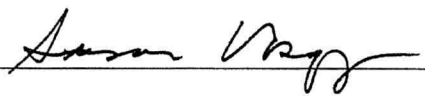
- 11 ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set
12 forth below on this date before 5:00 p.m.
- 13 ☐ by placing the document(s) listed above in a sealed envelope with postage thereon
14 fully prepaid, the United States mail at Los Angeles, California addressed as set
15 forth below.
- 16 ☐ by placing the document(s) listed above in a sealed _____ envelope and
17 affixing a pre-paid air bill, and causing the envelope to be delivered to
18 a _____ agent for delivery.
- 19 ☐ by personally delivering the document(s) listed above to the person(s) at the
20 address(es) set forth below.
- 21 ☒ by transmitting via my electronic service address (svasquez@bwsllaw.com) the
22 document(s) listed above to the person(s) at the e-mail address(es) set forth below.

23 (Service List attached)

24 I am readily familiar with the firm's practice of collection and processing correspondence
25 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same
26 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on
27 motion of the party served, service is presumed invalid if postal cancellation date or postage
28 meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above
is true and correct.

Executed on April 11, 2019, at Los Angeles, California.


Susan Vasquez

SERVICE LIST
Alvarez v. Huizar, et al.
18STCV01722

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Attorney for Defendant City of Los Angeles

04/12/2018